

A RESOLUTION AUTHORIZING AND EMPOWERING THE MAYOR AND COUNCIL OF ROCKVILLE TO ISSUE, SELL AND DELIVER, AT ANY ONE TIME OR FROM TIME TO TIME, ITS ECONOMIC DEVELOPMENT REVENUE BONDS IN ONE OR MORE SERIES AND IN A PRINCIPAL AMOUNT NOT TO EXCEED \$25,000,000, PURSUANT TO THE PROVISIONS OF TITLE 12 OF THE ECONOMIC DEVELOPMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED, IN ORDER TO LOAN THE PROCEEDS THEREOF TO THE NATIONAL LUTHERAN HOME & VILLAGE AT ROCKVILLE, INC., A DISTRICT OF COLUMBIA NON-PROFIT CORPORATION, FOR THE SOLE AND EXCLUSIVE PURPOSES DESCRIBED IN THIS RESOLUTION; APPROVING, PURSUANT TO NOTICE AND FOLLOWING A PUBLIC HEARING, THE ISSUANCE OF THE BONDS REQUESTED IN THE LETTER OF INTENT FROM THE BORROWER TO MAYOR AND COUNCIL OF ROCKVILLE DATED SEPTEMBER 12, 2011; ACCEPTING SAID LETTER OF INTENT; MAKING CERTAIN LEGISLATIVE FINDINGS, AMONG OTHERS, CONCERNING THE PUBLIC BENEFIT AND PURPOSE OF SUCH REVENUE BONDS; **PROVIDING THAT SUCH REVENUE BONDS AND THE INTEREST THEREON SHALL BE LIMITED OBLIGATIONS OF THE MAYOR AND COUNCIL OF ROCKVILLE, REPAYABLE SOLELY FROM THE REVENUES DERIVED FROM LOAN REPAYMENTS (BOTH PRINCIPAL AND INTEREST) MADE AVAILABLE FOR SUCH PURPOSE, AND THAT NEITHER SUCH REVENUE BONDS NOR THE INTEREST THEREON SHALL EVER CONSTITUTE AN INDEBTEDNESS OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE MAYOR AND COUNCIL OF ROCKVILLE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR CHARTER PROVISION OR STATUTORY LIMITATION AND THAT NEITHER SHALL EVER CONSTITUTE OR GIVE RISE TO ANY PECUNIARY LIABILITY OF THE MAYOR AND COUNCIL OF ROCKVILLE;** AUTHORIZING AND EMPOWERING THE MAYOR, PRIOR TO THE ISSUANCE, SALE AND DELIVERY OF SUCH REVENUE BONDS, TO PRESCRIBE THE RATE OR RATES OF INTEREST SUCH REVENUE BONDS ARE TO BEAR, THE FORM, TENOR, TERMS AND CONDITIONS OF AND SECURITY FOR SUCH REVENUE BONDS, AND TO PRESCRIBE, DETERMINE, PROVIDE FOR AND APPROVE VARIOUS OTHER MATTERS, DETAILS, DOCUMENTS AND PROCEDURES IN CONNECTION WITH THE AUTHORIZATION, ISSUANCE, SECURITY, SALE AND PAYMENT FOR SUCH REVENUE BONDS; AND GENERALLY PROVIDING FOR AND DETERMINING VARIOUS MATTERS AND DETAILS IN CONNECTION WITH THE AUTHORIZATION, ISSUANCE, SECURITY, SALE AND PAYMENT OF SUCH REVENUE BONDS.

RECITALS:

Title 12 of the Economic Development Article of the Annotated Code of Maryland, as amended (the "Act") empowers all the counties and municipalities of the State of Maryland to issue revenue bonds and to loan the proceeds of the sale of such revenue bonds to a "facility user" to finance the improvement (as defined in the Act) by such "facility user" of any facility (as described in the Act). As defined in the Act, a "facility user" includes any individual, public or private corporation, or other entity whether for-profit or not-for-profit, which owns, leases, or uses all or any part of a facility.

The Act declares it to be the legislative purpose to relieve conditions of unemployment in the State of Maryland, to encourage the increase of industry and commerce and a balanced economy in the State of Maryland, to assist in the retention of existing industry and commerce in

and the attraction of new industry and commerce in the State of Maryland through among other things, port development and the control or abatement of environmental pollution and the use and disposal of waste, to promote economic development, to protect natural resources and encourage resource recovery and to generally promote the health, welfare, and safety of the residents of each of the counties and municipalities of the State of Maryland.

The Mayor and Council of Rockville, a body politic and corporate and a municipal corporation of the State of Maryland (the "City"), has received a letter of intent dated September 12, 2011 (the "Letter of Intent"), from the National Lutheran Home & Village at Rockville, Inc., a District of Columbia non-profit corporation (the "Borrower") (in form attached hereto as Exhibit A), a "facility applicant" as defined in the Act, in which it is requested that the City participate in the financing of a certain facility, by the issuance of certain bonds and by loaning the proceeds thereof to the Borrower for the purpose of improving such facility upon the terms and conditions of a loan or similar agreement to be entered into between the City and the Borrower (the "Loan Agreement"), as permitted by the Act (such loan being herein referred to as the "Loan").

The Facility constitutes improvements to various portions of the Borrower's existing senior living facilities located at 9701 Veirs Drive, Rockville, Maryland 20850.

The Facility, which is a "facility" as defined in the Act, is described on Schedule 1 attached hereto and made a part hereof, which description is hereafter collectively referred to as, the "Facility".

Pursuant to the Letter of Intent the City has been requested to participate in financing the acquisition of the Facility by the issuance and sale by the City of one or more series of its revenue bonds in an aggregate principal amount not to exceed \$25,000,000 pursuant to and in accordance with the Act.

The City, based upon the findings and determinations set forth below, has determined to participate in the financing of the Facility by (a) issuing, selling and delivering one or more series of its revenue bonds in an aggregate principal amount not to exceed \$25,000,000 (the "Bonds"), and (b) loaning the proceeds of the Bonds to the Borrower upon the terms and conditions of the Loan Agreement, as permitted by the Act.

The Loan Agreement will require the Borrower (a) to use the proceeds of the Bonds solely to finance or refinance the design, acquisition, improvement, renovation, construction, equipping and development of the Facility (or reimburse for prior capital expenditures in connection therewith) (except to the extent of amounts permitted to be expended for other purposes under the Act and by the Loan Agreement), and (b) to make Loan payments which will be sufficient to enable the City to pay the principal of and interest and premium, if any, on the Bonds when and as the same shall become due and payable.

As security for the Bonds, the City may enter into a trust agreement with one or more corporate trustees or a purchase or assignment agreement with the purchaser of the Bonds, pursuant to which, the City will assign to such trustee or purchaser, among other things, and excepting the right of the City to indemnification and to payments to the City for expenses, all of the City's right, title and interest in and to, and remedies with respect to the Loan Agreement and any other document or instrument relating to the Loan, and any and all other property of every description and nature from time to time by delivery or by writing of any kind conveyed, pledged, assigned or transferred, as and for additional security for the Bonds.

SECTION 1. BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE,  
That, acting pursuant to the Act, it is hereby found and determined as follows:

(1) The issuance and sale of the Bonds by the City pursuant to the Act in order to lend the proceeds thereof to the Borrower for the sole and exclusive purpose (except to the extent of amounts permitted to be expended for other purposes under the Act and by the Loan Agreement) of financing and refinancing (or reimburse for prior capital expenditures in connection with) the design, acquisition, improvement (within the meaning of the Act), construction, renovation, equipping and development by the Borrower of the Facility will facilitate and expedite the design, acquisition, improvement, construction, renovation, equipping and development of the Facility by the Borrower.

(2) The design, acquisition, construction, renovation, equipping and development of the Facility by the Borrower and the financing and refinancing thereof as provided in this Resolution will promote the declared legislative purposes of the Act by (a) creating jobs and employment, thus relieving conditions of unemployment in the State of Maryland and in the City of Rockville, Maryland; (b) assisting in the retention of existing industry and commerce and in the attraction of new industry and commerce in the State of Maryland and in the City of Rockville, Maryland; (c) promoting economic development; and (d) promoting the health, welfare and safety of the residents of the State of Maryland and the City of Rockville.

(3) In addition to authorizing the City itself to acquire the Facility and either to lease or to sell the same to the Borrower, the Act authorizes facility financing, or a refunding thereof, to be accomplished in the form of a loan by the City to the Borrower. The loan form of transaction avoids indirect costs and burdens on the City by eliminating any direct involvement by the City in the acquisition, ownership or administration of the Facility while permitting the imposition of ample controls on the use of the proceeds of the Bonds, thus insuring that the public purposes of the Act and the bond transactions are fully accomplished. Because it is in the best interests of the citizens of the City of Rockville, Maryland to finance or refinance the acquisition and improvement of the Facility by a loan to the Borrower, this Resolution contemplates and authorizes a transaction in the form of a loan of the proceeds of the Bonds by the City to the Borrower. Accordingly, this Resolution, together with one or more written orders to be executed by the Mayor of Rockville prior to the issuance, sale and delivery of the Bonds (the "Written Order"), the Loan Agreement and any other instrument pertaining to the issuance, sale or delivery of the Bonds, including those instruments approved by the Written Order (such other instruments, together with the Loan Agreement, collectively, the "Bond Documents"), contains, or shall contain, such provisions as the City deems appropriate to effect the financing or refinancing of the acquisition and improvement by the Borrower of the Facility by the loan form of transaction.

(4) **NEITHER THE BONDS NOR THE INTEREST THEREON SHALL EVER CONSTITUTE AN INDEBTEDNESS OR GENERAL OBLIGATION OF THE CITY OR A CHARGE AGAINST, OR PLEDGE OF THE GENERAL CREDIT OR TAXING POWERS OF THE CITY, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR CHARTER PROVISION OR STATUTORY LIMITATION, AND NEITHER SHALL EVER CONSTITUTE OR GIVE RISE TO ANY PECUNIARY LIABILITY OF THE CITY. THE BONDS AND THE INTEREST THEREON SHALL BE LIMITED OBLIGATIONS OF THE CITY, REPAYABLE BY THE CITY SOLELY FROM THE REVENUES DERIVED FROM LOAN REPAYMENTS (BOTH PRINCIPAL AND INTEREST) MADE TO THE CITY BY THE BORROWER ON ACCOUNT OF THE LOAN AND FROM ANY OTHER MONIES MADE AVAILABLE TO THE CITY FOR SUCH PURPOSE.** The

proceeds of the Bonds, and the payments to be made by the Borrower pursuant to the Loan Agreement, will be paid directly to a trustee or the holders of the Bonds in the event a trustee is not appointed for such purpose to be held and disbursed as shall be approved by the Mayor in the Written Order. No such monies will be commingled with the City's funds but are deemed necessary or desirable by the City to insure that the proceeds of the Bonds are used to accomplish the public purposes of the Act and this Resolution. The transactions authorized hereby do not constitute any physical public betterment or improvement or the acquisition of property for public use or the purchase of equipment for public use. The public purposes expressed in the Act are to be achieved by facilitating the acquisition of the Facility.

(5) The Borrower is or will be a "facility applicant" and a "facility user" as defined in the Act and the Facility will be used by the Borrower for its charitable purposes within the purposes permitted by the Act.

SECTION 2. AND BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, That the City hereby approves the Plan of Finance, the Bonds and the Facility and is authorized and empowered to issue, sell and deliver, at any time or from time to time, one or more series of Bonds to be designated as shall be prescribed in the Written Order, in a principal amount not to exceed \$25,000,000 subject to the provisions of this Resolution. The proceeds of the Bonds will be loaned to the Borrower pursuant to the terms and provisions of the Loan Agreement, to be expended by the Borrower for the sole and exclusive purpose of financing and refinancing the acquisition and improvement of a facility as specified in the Act (including reimbursing the Borrower for prior capital expenditures) (except to the extent of amounts permitted to be expended for other purposes under the Act and by the Loan Agreement).

The Letter of Intent is hereby accepted by the City and the Mayor is hereby authorized and directed to execute the Letter of Intent in order to evidence such acceptance. The Letter of Intent is intended to constitute a "letter of intent" as contemplated by the Act.

The authority to issue the Bonds is intended to and shall include the authority to issue revenue refunding bonds. Reference herein to the "Bonds" shall include revenue refunding bonds where appropriate. In the event that any refunding bonds are issued pursuant to this Resolution, the outstanding principal amount of any "refunded bonds" (as hereinafter defined) shall not be taken into account in determining the aggregate principal amount of the Bonds issued, sold and delivered hereunder. The term "refunded bonds" means any Bonds (i) for the payment of which (both principal and interest) provision has been made from the proceeds (including any earnings on the investment thereof) of Bonds issued pursuant to this Resolution, or (ii) which have been paid from such proceeds, whether such provisions for payment, or such payment is made at or prior to the maturity of such Bonds.

SECTION 3. AND BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, That this Resolution is intended to be, and shall constitute, evidence of the City's intent to issue and deliver the Bonds authorized hereby in accordance with the terms hereof when the Bonds are sold, provided that the City shall have no duty to obtain a purchaser or purchasers therefor and shall incur no pecuniary liability in the event that the Bonds are not sold.

SECTION 4. AND BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, That the Bonds shall be executed in the name of the City and on its behalf by the Mayor, by his or her manual or facsimile signature, and the corporate seal of the City or a facsimile thereof shall be impressed or otherwise reproduced thereon and attested by the City

Clerk (or other authorized officer) by his or her manual or facsimile signature. The Bond Documents shall be executed in the name of the City and on its behalf by the Mayor, the City Manager or the Chief Financial Officer of the City by his or her manual signature, and the corporate seal of the City or a facsimile thereof shall be impressed or otherwise reproduced thereon and attested by the City Clerk (or other authorized officer) by his or her manual signature.

In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds or any of the aforesaid documents shall cease to be such officer before the delivery of the Bonds or any of the aforesaid documents, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. The Mayor, the City Manager (including, without limitation, any Acting City Manager), the Chief Financial Officer, the City Clerk and other officials of the City are hereby authorized and empowered to do all such acts and things and execute such other documents and certificates as the Mayor may deem necessary to carry out and comply with the provisions hereof.

SECTION 5. AND BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, That prior to the issuance, sale and delivery of the Bonds, the Mayor shall execute the Written Order pursuant to which the Mayor may (without limitation) specify, prescribe, determine, provide for or approve, all within the limitation of this Resolution and the Act, all matters, details, forms, documents and procedures pertaining to the sale, security, issuance, delivery and payment of or for the Bonds, including (without limitation):

(a) The principal amount of the Bonds to be issued at any one time or from time to time, the rate or rates of interest thereon or the method of determining such rate or rates, the date or dates of maturity thereof, provisions for the payment thereof, prepayment, sinking fund or redemption provisions (if any) thereof, the designation or designations of the Bonds and of any series, and the date or dates of issuance thereof;

(b) the form, tenor, terms and conditions of the Bonds, and provisions for the registration and transfer of the Bonds (if any);

(c) the form and contents of, and provisions for the execution and delivery of, such financing documents as the Mayor shall deem necessary or desirable to evidence, secure or effectuate the Loan and the issuance, sale and delivery of the Bonds, including (without limitation) any loan agreements, notes, mortgages, deeds of trust, security agreements, assignments, guarantees, financing agreements or escrow agreements;

(d) provision for the payment directly by the Borrower of all expenses of preparing, printing and selling the Bonds, including (without limitation) any and all costs, fees and expenses, incurred by or on behalf of the City in connection with the authorization, issuance, sale and delivery of the Bonds, and all costs incurred in connection with the development of the appropriate legal documents, including fees of counsel to the City, and compensation to any persons (other than full-time employees of the City) or entities performing services for or on behalf of the City in connection therewith and in connection with all other transactions contemplated by this Resolution, whether or not the proposed financing is consummated;

(e) the creation of security for the Bonds and provision for the administration of the Bonds, including (without limitation) the appointment of such trustees, escrow agents, payment agents, registrars or other agents as the Mayor shall deem necessary or desirable to effectuate the transactions authorized hereby;

(f) the preparation and distribution, in conjunction with representatives of the Borrower and the prospective purchasers of or underwriters for the Bonds of any series, both a preliminary and a final official statement, placement memoranda, limited offering memoranda or offering circular in connection with the sale of the Bonds of any series, if such preliminary official statement and final official statement, placement memoranda or offering circular are determined to be necessary or desirable for the sale of the Bonds of such series;

(g) the form and contents of, and provisions for the execution and delivery of, a contract or contracts for the purchase and sale of the Bonds of any series (or any portion thereof);

(h) provision for the issuance and sale (subject to the passage at the time of any appropriate resolution authorizing the same) of one or more series of additional bonds (which may be on a parity with, or subordinate to, the Bonds) and one or more series of refunding bonds;

(i) provision for the funding of reserves for the Bonds of such series and for the payment of interest on the Bonds of such series in such amounts and for such period as the Mayor deems reasonable; and

(j) such other matters in connection with the authorization, issuance, execution, sale, delivery and payment of the Bonds, the security for the Bonds and the Loan, and the consummation of the transactions contemplated by this Resolution as may be deemed appropriate and approved by the Mayor including (without limitation) establishing procedures for the execution, acknowledgment, sealing and delivery of such other and further agreements, documents, and instruments (including continuing disclosure documents), and the authorization of the officials of the City to take any and all actions, as are or may be necessary or appropriate to consummate the transactions contemplated by this Resolution in accordance with the Act and this Resolution.

SECTION 6. AND BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, That before or after the issuance, sale and delivery of the Bonds of any series, regardless of the date on which such Bonds are issued, the Mayor is hereby authorized and empowered, by executive order or otherwise, to supplement the Written Order provided for by Section 5 of this Resolution and thereby approve on behalf of the City any amendments or supplements to or substitutes for the forms and provisions of the Bonds, the Loan Agreement, any trust agreement or similar agreement and all other documents executed and delivered on behalf of the City in connection with the issuance, sale and delivery of the Bonds pursuant to the provisions of such documents, provided that (1) each such supplemental executive order or orders and each amendment, supplement or substitute to such document shall be in accordance with the provisions of the Act, this Resolution, and the documents executed and delivered in connection with the Bonds and then in effect and (2) all of the foregoing shall be subject to any approval by the Mayor and Council as may be required pursuant to federal tax law.

SECTION 7. AND BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, That (a) **THE ACT PROVIDES THAT NEITHER THE BONDS NOR THE INTEREST THEREON SHALL EVER CONSTITUTE AN INDEBTEDNESS OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR CHARTER PROVISION OR STATUTORY LIMITATION AND SHALL NEVER CONSTITUTE OR GIVE RISE TO PECUNIARY LIABILITY OF THE CITY.** In order to implement Section 12-113 of the Act stating that the Bonds may not give rise to pecuniary liability of the City, the Written Order, the Loan Agreement, the Bonds and

the Bond Documents may provide that no bondholder shall look to the City for damages suffered by such bondholder as a result of the failure of the City to perform any covenant, undertaking or obligation under the Bond Documents, nor as result of the incorrectness of any representation made by the City in the Bond Documents. Although this Resolution recognizes that the Bond Documents shall not give rise to pecuniary liability of the City, nothing contained in this Resolution or in the Bond Documents shall be construed to preclude in any way any action or proceedings (other than that element in any action or proceeding involving a claim for monetary damages against the City) in any court or before any governmental body, agency or instrumentality, or otherwise against the City or any of its officers or employees to enforce the provisions of any of the Bond Documents.

(b) Although the Bond Documents shall provide that the City shall have the right to seek remedies in the event of a default by the Borrower, it is contemplated that the City will assign the performance of obligations to take action to the trustee for the holder(s) of the Bonds or the purchasers or holder of the Bonds, in order to implement the purposes and intent of the Act, namely to facilitate the acquisition and improvement of the Facility by the Borrower without incurring any pecuniary obligation or liability of the City. Accordingly, if a trustee is appointed for such purpose, the trustee shall have the duty to act, whether or not at the direction of the bondholders, in all instances in which the trustee for such bonds may act and determines that action is appropriate. In any case, where action by the trustee for the Bonds or the purchaser or holder of the Bonds requires simultaneous or subsequent action by the City, the City will cooperate with such trustee or the purchaser or holder of the Bonds and take any and all action necessary to effectuate the purposes and intent of the Resolution and the Bond Documents. The performance by the trustee for the Bonds or the purchaser or holder of the Bonds of obligations under any of the Bond Documents permits the indemnification of all costs arising from the exercise of such obligations. The Bond Documents shall provide that the Borrower shall pay those costs in order to avoid any direct or indirect pecuniary burden on the City.

SECTION 8. AND BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, That, as permitted by the Act, the Bonds of each series shall be sold at private (negotiated) sale and at par, unless the Mayor, with the consent of the Borrower, deems it to be in the best interests of the City and the Borrower to sell the Bonds of any series at public sale or by retail sale or above or below par, in which event the Bonds of such series shall be sold in such manner, at such price or prices and upon such terms as shall be determined in the Written Order to be in the best interests of the City and the Borrower. The Bond of each series shall be sold at such times, on such dates and to such persons, firms or corporations (including, without limitation, banks or other financial institutions) as shall be determined by the Mayor, with the consent of the Borrower.

SECTION 9. AND BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, That the provisions of this Resolution are severable, and if any provision, sentence, clause, section or part hereof is held illegal, invalid or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Resolution or their application to other persons or circumstances and the remaining provisions shall be construed so as to give practical realization to the public purposes intended to be achieved hereunder and the protection against pecuniary liability to be afforded to the City. It is hereby declared to be the legislative intent that this Resolution would have been passed if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been

included herein, and if the person or circumstance to which this Resolution or any part hereof is inapplicable had been specifically exempted therefrom.

SECTION 10. AND BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, That in the event that the initial issuance of the Bonds as contemplated by this Resolution shall not have occurred by January 1, 2013, the City's authorization under this Resolution shall terminate unless otherwise extended by resolution of the City.

SECTION 11. AND BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, That this Resolution shall take effect from the date of its adoption.

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I hereby certify that the foregoing is a true and correct copy of a resoultuion adopted by the Mayor and Council at its meeting of December 12, 2011.

  
Brenda F. Bean, Acting City Clerk



## SCHEDULE 1

### THE FACILITY

The proceeds from the sale of the Bonds will be loaned to the Borrower to be used by the Borrower to finance or refinance (or reimburse for prior capital expenditures in connection with) the improvement, acquisition, construction, renovation, equipping and development of a portion of the costs of improvements to the Borrower's existing senior living facilities located at 9701 Veirs Drive, Rockville, Maryland 20850, including renovations to existing apartment units and common areas and the reconfiguration of certain skilled nursing units to add an additional level of care (collectively, the "2011 Facilities"). The proceeds from the sale of the Bonds may also be used by the Borrower to fund a debt service reserve fund and capitalized interest for the Bonds, and to pay certain costs of issuance and other related costs.

EXHIBIT A

Letter of Intent

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September 12, 2011

Mr. Gavin Cohen  
Chief Financial Officer  
City of Rockville  
Rockville City Hall  
111 Maryland Avenue  
Rockville, Maryland 20850

Re: The Mayor and Council of Rockville Economic Development Revenue Bonds  
(National Lutheran Home & Village at Rockville Project)

Dear Mr. Cohen:

Enclosed is a letter from the National Lutheran Home & Village at Rockville, Inc. formally requesting the City to issue economic development revenue bonds in an amount not to exceed \$25,000,000 to finance certain improvements to NLHV's existing facilities located at 9701 Veirs Mill Road. Also enclosed is a brief project description and a table summarizing the sources and uses of funds for the project.

Please contact me after you have had a chance to review the enclosed so that we can discuss next steps. I would also be happy to answer any questions you may have about the letter or the project.

Sincerely,



Cheryl O'Donnell Guth

COG: crh  
Enclosures

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ATTACH A

August 26, 2011

Mr. Gavin Cohen  
Chief Financial Officer  
City of Rockville  
Rockville City Hall  
111 Maryland Avenue  
Rockville, Maryland 20850

Re: The Mayor and Council of Rockville Economic Development Revenue Bonds  
(National Lutheran Home & Village at Rockville Project)

Dear Mr. Cohen:

Pursuant to and in accordance with the Maryland Economic Development Revenue Bond Act, Sections 12-101 to 12-118, inclusive, of the Economic Development Article of the Annotated Code of Maryland (the "Act"), National Lutheran Home & Village at Rockville, Inc., a Maryland nonstock corporation (the "Facility Applicant") respectfully requests that The Mayor and Council of Rockville, a body corporate and politic and municipal corporation of the State of Maryland and a public body within the meaning of the Act (the "City") authorize, issue and sell its economic development revenue bonds, in one or more series, in an aggregate principal amount not to exceed Twenty Five Million Dollars (\$25,000,000) (the "Bonds"), for the purpose of financing the costs of certain facilities (within the meaning of the Act) hereinafter described. It is intended that this letter, if accepted by the City, shall constitute a "letter of intent" as contemplated by Section 12-101(f) of the Act.

The Facility Applicant proposes that the City lend the proceeds of the Bonds to the Facility Applicant pursuant to the terms and provisions of a loan agreement to be entered into by and between the City and the Facility Applicant (the "Loan Agreement") for the purpose of financing and refinancing a portion of the costs of the Project (hereinafter defined), funding a debt service reserve fund and capitalized interest account for the Bonds and financing a portion of the costs of issuance of the Bonds and other related costs. All costs of constructing the Project in excess of such loan proceeds will be paid by the Facility Applicant.

The Bonds shall be repayable by the City solely from the revenues derived from payments made to the City pursuant to the terms and provisions of the Loan Agreement and from such other monies as may be made available by the Facility Applicant to the City for such purpose. The Loan Agreement will require that (1) the proceeds of the Bonds be used solely to finance and refinance the costs of the Project and (2) the Facility Applicant make payments which will be sufficient to enable the City to pay the principal of, premium, if any, and interest

on the Bonds, and all expenses incurred by the City in connection with the issuance of the Bonds and the making and administration of the loan, as the same become due and payable.

The Facility Applicant will use the proceeds of the loan from the City to (i) finance and refinance a portion of the costs of improvements to the Facility Applicant's existing senior living facilities located at 9701 Veirs Drive, Rockville, Maryland (the "Existing Facilities"), including renovations to existing apartment units and the reconfiguration of certain skilled nursing units to add an additional level of care, as more particularly described below (the "Project"), (ii) fund a debt service reserve fund and capitalized interest for such Bonds, and (iii) pay certain costs of issuance and other related costs.

The Existing Facilities consist of 300 skilled nursing beds, 144 residential apartment units and related common spaces. After completion of the Project, the Facilities will consist of 160 skilled nursing beds, 50 assisted living beds, 144 residential apartment units and related common spaces. The Project will be built in phases and is expected to be completed in October 2014. The Facility Applicant believes that the Project will generally promote the purposes of the Act, by (i) creating and sustaining jobs and employment, thereby relieving conditions of unemployment in the City, Montgomery County, Maryland (the "County") and the State; (ii) encouraging the increase of industry and commerce and a balanced economy in the City, the County and the State; (iii) assisting in the retention of existing industry and commerce in the City, the County and the State; (iv) promoting economic development; and (v) generally promoting the health, welfare and safety of the residents of the City, the County and the State.

The Facility Applicant has been determined by the Internal Revenue Service to be an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and will own, within the meaning of Section 145(a) of the Code, all of the property which is to be provided by the net proceeds of the Bonds.

The Facility Applicant hereby acknowledges that the City reserves the right, in its sole and absolute discretion, to take any actions which the City may deem necessary in order to ensure that the City (a) complies with all federal and state laws, whether proposed or enacted, which may restrict the issuance of its economic development revenue bonds, and (b) issues such bonds that finance or refinance facilities which the City determines, in its sole and absolute discretion, will provide the greatest benefit to the City. Specifically, the City reserves the right to choose to issue its economic development revenue bonds for facilities other than the Project, and to issue or not to issue such bonds and the Bonds in the order of priority which the Mayor, in her sole and absolute discretion, may determine.

It is expressly agreed and understood that (a) the City will not incur any liability, direct or indirect, or any cost, direct or indirect, in connection with the issuance and sale of the Bonds or the making of the loan, (b) the Project will be constructed so as to conform to the requirements

of the Facility Applicant, and (c) the Facility Applicant shall (i) select and work with the suppliers and contractors who will provide, construct and equip the Project and (ii) pay all costs incurred by or on behalf of the City in connection with the proposed financing and refinancing, including the administration thereof, the fees of bond counsel and counsel to the City, all costs incurred in connection with publication of notices of any public hearings to be held in connection therewith, and compensation to any other person (other than full-time employees of the City) performing services by or on behalf of the City in connection with the transactions contemplated by this Letter of Intent, whether or not the proposed financing and refinancing is consummated.

It is further understood and agreed by the undersigned that the proposal contained herein is subject to (a) the approval and appropriate action by the Mayor and City Council of the City, and (b) the approval of the detailed provisions of all documents pertaining to the financing and refinancing as yet to be developed. The acceptance of this Letter of Intent by the City shall evidence the present intent by the City to authorize, sell, issue and deliver the Bonds and to authorize the loan for the purposes described herein; provided, however, the City cannot guaranty or assure the undersigned that the Bonds will actually be sold on terms acceptable to the Facility Applicant or any other interested parties, that the Facility Applicant will obtain purchasers of the Bonds qualified to purchase the Bonds under applicable federal and state securities law, that the Facility Applicant will have the ability to make payments sufficient to enable the City to repay the Bonds, or that the proposed transaction will be consummated.

The Facility Applicant understands that the Bonds are and shall remain payable solely from moneys derived from payments to the City by the Facility Applicant and that the Bonds and the interest or premium thereon are not debts or charges against the general credit or taxing powers of the City, within the meaning of any constitutional or charter provision or statutory limitation, and may not give rise to any pecuniary liability of the City. Nothing contained in this Letter of Intent shall be deemed to constitute an undertaking by the City to expend any of its funds to effect any of the transactions contemplated by this Letter of Intent.

Very truly yours,

NATIONAL LUTHERAN HOME & VILLAGE  
AT ROCKVILLE, INC.

By: 

Name: Frank McGovern

Title: Executive Director

ACCEPTED:

THE MAYOR AND COUNCIL OF ROCKVILLE

By: \_\_\_\_\_

Phyllis Marcuccio

Mayor

Date: \_\_\_\_\_

U32482681.3

## **Project Description**

### **Background**

The National Lutheran Home & Village of Rockville ("NLHV") has owned and operated a retirement community on its 30-acre site at 9701 Veirs Drive in Rockville, Maryland for over thirty years, with an existing capacity for approximately 450 residents, although the current NLHV census is approximately 400 residents.

### **Project Overview**

NLHV has commenced the implementation of a master plan to reconfigure the existing skilled nursing areas and common spaces and to add a new assisted living level of care. The construction and renovations will be undertaken in phases so as to minimize the disruption of existing residents. After completion of all planned renovations and construction, NLHV's capacity will be approximately 350 residents. The purpose of the Project is to facilitate the addition of Assisted Living units and to reconfigure the existing skilled nursing beds to eliminate semi-private rooms.

### **Project Description**

As currently planned, the renovations are expected to be completed in six phases as follows:

- Renovation/reconstruction of 3rd Floor Maryland Unit.
- Renovation/reconstruction of 1st and 2nd Floor Maryland Unit.
- Renovation/reconstruction of 2nd and 3rd Floor Virginia Unit.
- Renovation/reconstruction of 2nd Floor Potomac Unit.
- Renovation/reconstruction of 1st Floor Virginia Unit.
- Renovation/reconstruction of 1st Floor Potomac Unit.

The Project will primarily involve the renovation and reconfiguration of units within NLHV's existing buildings, although a new entryway/portico is included as part of the Project. The building permit for phase 1 of the Project has been issued.



**Estimated Sources and Uses****Sources**

Bond Proceeds	\$25,000,000
Equity Contribution	<u>11,750,000</u>
Total	\$36,750,000

**Uses**

Construction Costs	\$33,250,000
Capitalized Interest	2,000,000
Debt Service Reserve Fund	750,000
Cost of Issuance	<u>750,000</u>
Total	\$36,750,000

EXHIBIT B

Public Notice

MAYOR AND COUNCIL OF ROCKVILLE  
CITY HALL  
111 MARYLAND AVENUE  
ROCKVILLE, MARYLAND 20850  
(240) 314-5000

PUBLIC NOTICE

Notice is hereby given that two public hearings, pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, will be held by the Mayor and Council of Rockville, Maryland (the "City") to permit any resident of the City of Rockville, Maryland to appear and testify concerning the plan of finance (the "Plan of Finance") pursuant to which the City would issue up to \$25,000,000 of its Economic Development Revenue Bonds (the "Bonds") for the benefit of the National Lutheran Home & Village at Rockville, Inc., a District of Columbia non-profit corporation (the "Borrower"). The first hearing will be held on **Monday, December 12, 2011**, at 7:00 p.m., or soon thereafter, in the first floor meeting room, City Hall, 111 Maryland Avenue, Rockville, Maryland 20850. The second hearing will be held on **Friday, December 23, 2011**, at 10:00 a.m., or soon thereafter, in the first floor meeting room, City Hall, 111 Maryland Avenue, Rockville, Maryland 20850.

FACILITY:

The proceeds from the sale of the Bonds will be loaned to the Borrower to be used by the Borrower to finance or refinance (or reimburse for prior capital expenditures in connection with) the improvement, acquisition, construction, renovation, equipping and development of a portion of the costs of improvements to the Borrower's existing senior living facilities located at 9701 Veirs Drive, Rockville, Maryland 20850, including renovations to existing apartment units and the reconfiguration of certain skilled nursing units to add an additional level of care (collectively, the "Facility"). The Facility may also include land or interests in land, buildings, landscaping, structures, machinery, equipment, furnishings or other real or personal property located on the same site as the Facility. The proceeds from the sale of the Bonds may also be used by the Borrower to fund a debt service reserve fund and capitalized interest for the Bonds, and to pay certain costs of issuance and other related costs.

LOCATION:

The Facility is located at 9701 Veirs Drive, Rockville, Maryland 20850.

INITIAL OWNER AND OPERATOR OF FACILITY:

The National Lutheran Home & Village at Rockville, Inc., a District of Columbia non-profit corporation.

PROPOSED USE OF FACILITY:

The Facility has been and shall be used by the Borrower as a senior living facility.

The Bonds are and will be limited obligations of the City, the principal of, premium (if any) upon, and interest on which are payable solely from revenues to be received in connection with the

financing of the Facility here described and from other moneys available to the City for such purposes. Neither the Bonds nor the interest thereon shall ever constitute an indebtedness or charge against the general credit or taxing powers of the City within the meaning of any constitutional or charter provision or statutory limitation and neither shall ever constitute or give rise to any pecuniary liability of the City.

Individuals will be given an opportunity to be heard at this hearing regarding the Plan of Finance and the proposed Bonds and the location and nature of the Facility. Comments will be limited to five (5) minutes per speaker.

Written comments on the proposed transaction with respect to the Bonds may be sent to the Mayor and Council of Rockville, City Hall, 111 Maryland Avenue, Rockville, Maryland 20850, (240) 314-5000, Attention: Acting City Manager.

MAYOR AND COUNCIL OF ROCKVILLE

Phyllis Marcuccio, Mayor